

**41-6a-518.2. Interlock restricted driver -- Penalties for operation without ignition interlock system.**

(1) As used in this section:

(a) "ignition interlock system" means a constant monitoring device or any similar device that:

(i) is in working order at the time of operation or actual physical control; and

(ii) is certified by the Commissioner of Public Safety in accordance with Subsection 41-6a-518(8); and

(b) (i) "interlock restricted driver" means a person who:

(A) has been ordered by a court or the Board of Pardons and Parole as a condition of probation or parole not to operate a motor vehicle without an ignition interlock system;

(B) within the last 18 months has been convicted of a driving under the influence violation under Section 41-6a-502 that was committed on or after July 1, 2009;

(C) (I) within the last three years has been convicted of an offense that occurred after May 1, 2006 which would be a conviction as defined under Section 41-6a-501; and

(II) the offense described under Subsection (1)(b)(i)(C)(I) is committed within 10 years from the date that one or more prior offenses was committed if the prior offense resulted in a conviction as defined in Subsection 41-6a-501(2);

(D) within the last three years has been convicted of a violation of this section;

(E) within the last three years has had the person's driving privilege revoked for refusal to submit to a chemical test under Section 41-6a-520, which refusal occurred after May 1, 2006;

(F) within the last three years has been convicted of a violation of Section 41-6a-502 and was under the age of 21 at the time the offense was committed;

(G) within the last six years has been convicted of a felony violation of Section 41-6a-502 for an offense that occurred after May 1, 2006; or

(H) within the last 10 years has been convicted of automobile homicide under Section 76-5-207 for an offense that occurred after May 1, 2006; and

(ii) "interlock restricted driver" does not include a person if:

(A) the person's conviction described in Subsection (1)(b)(i)(C)(I) is a conviction under Section 41-6a-517; and

(B) all of the person's prior convictions described in Subsection (1)(b)(i)(C)(II) are convictions under Section 41-6a-517.

(2) For purposes of this section, a plea of guilty or no contest to a violation of Section 41-6a-502 which plea was held in abeyance under Title 77, Chapter 2a, Pleas in Abeyance, prior to July 1, 2008, is the equivalent of a conviction, even if the charge has been subsequently reduced or dismissed in accordance with the plea in abeyance agreement.

(3) An interlock restricted driver that operates or is in actual physical control of a vehicle in this state without an ignition interlock system is guilty of a class B misdemeanor.

(4) (a) It is an affirmative defense to a charge of a violation of Subsection (3) if:

(i) an interlock restricted driver:

(A) operated or was in actual physical control of a vehicle owned by the interlock

restricted driver's employer;

(B) had given written notice to the employer of the interlock restricted driver's interlock restricted status prior to the operation or actual physical control under Subsection (4)(a)(i); and

(C) had on the interlock restricted driver's person or in the vehicle at the time of operation or physical control proof of having given notice to the interlock restricted driver's employer; and

(ii) the operation or actual physical control under Subsection (4)(a)(i)(A) was in the scope of the interlock restricted driver's employment.

(b) The affirmative defense under Subsection (4)(a) does not apply to:

(i) an employer-owned motor vehicle that is made available to an interlock restricted driver for personal use; or

(ii) a motor vehicle owned by a business entity that is all or partly owned or controlled by the interlock restricted driver.

Amended by Chapter 390, 2009 General Session